

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: : Chapter 13
Gallagher, Charles M.
Gallagher, Rachael L. : 15-14525 amc
Debtors/Plaintiffs :
 : Adversary No. 16-65 amc
v. :
 :
National Bank of Malvern :
Defendant :

STIPULATED ORDER DETERMINING THE EXTENT OF
THE THIRD AND FOURTH LIENS OF NATIONAL BANK OF MALVERN

WHEREAS, Plaintiffs, Charles M. & Rachael L. Gallagher, (hereinafter referred as Debtors and/or Plaintiffs), filed a Chapter 13 Petition and Plan on June 26, 2015;

WHEREAS, on on March 13, 2016, Debtors filed the instant Adversary Complaint vs. National Bank of Malvern. ("Creditor");

WHEREAS, on on May 10, 2016, Creditors filed an Answer and Affirmative Defenses to the Complaint in the instant Adversary;

WHEREAS, Debtors and Creditor are desirous of settling the dispute among and between themselves;

NOW THEREFORE, each in consideration of the promises of the other and intending to be legally bound, subject to the approval of the Bankruptcy Court, it is hereby agreed by and among Debtors, Charles M. & Rachael L. Gallagher, by and through their counsel, JOHN L. MCCLAIN ESQUIRE, ("Debtors' Counsel"), and National Bank of Malvern, by and through its counsel, William L. Howard, Esquire as follows:

1. The third mortgage (hereinafter the "Third Mortgage") held by the National Bank of Malvern on the property located at 850 Skelp Level Road, West Chester, PA 19380, ("Property") dated February 10, 2009, duly recorded on February 23, 2009 with the Recorder of Deeds of Chester County, PA, Book 7596 and page 257 is reduced to \$0.00 and Creditor's Third Mortgage will be void upon discharge of the Debt pursuant to 11 U.S.C. §506(d).

2. The fourth mortgage (hereinafter the "Fourth Mortgage") held by the National Bank of Malvern on the property located at 850 Skelp Level Road, West Chester, PA 19380, ("Property") dated August 19, 2011, duly recorded on August 26, 2011 with the Recorder of Deeds of Chester County, PA, Book 8235 and Page 1266 is reduced to

\$0.00 and Creditor's Third Mortgage will be void upon discharge of the Debt pursuant to 11 U.S.C. §506(d).

3. For the purposes of this bankruptcy only, both Third and Fourth Mortgages are wholly unsecured pursuant to 11 U.S.C. §506(a), and the Court may discharge the Third and Fourth Mortgages upon completion of the following: payment of all amounts required pursuant to the Debtors' confirmed Chapter 13 Plan, and amendments thereto; full administration of the Debtors' present Chapter 13 case; and entry of a Discharge Order pursuant to 11 U.S.C. §1328(a) in the instant Chapter 13 case.

4. Creditor's claims shall be allowed as a non-priority general unsecured claims and shall be paid as such in accordance with the Debtors' Chapter 13 Plan.

5. The avoidance of Creditor's third and fourth liens are contingent upon the Debtors' completion of the Chapter 13 Plan and the Debtors' receipt of a Chapter 13 discharge.

6. Creditor shall retain its lien for the full amount due under the subject loans in the event of either the dismissal of the Debtors' Chapter 13 case or the conversion of the Debtors' Chapter 13 Case to any other Chapter under the United States Bankruptcy Code.

7. In the event that any entity, including the holder of the first lien on the Subject Property forecloses on its security interest and extinguishes Creditor's liens prior to the Debtors' completion of the Chapter 13 plan, Creditor's liens shall attach to the surplus proceeds of the foreclosure sale for the full amount of the subject loan balances at the time of the sale.

8. Creditor will mark the Third and Fourth Mortgages satisfied once Debtors receive a discharge. Upon completion of Debtors' Chapter 13 Plan payments and within 30 days or sooner of the receipt of a notice of discharge, Creditor, National Bank of Malvern, shall file a satisfaction of its Third Mortgage lien with the Recorder of Deeds of Chester County, Pennsylvania, as said mortgage is recorded in Book 7596 Page No. 257 and pages following and shall file a satisfaction of its Fourth Mortgage lien with the Recorder of Deeds of Chester County, Pennsylvania, as said mortgage is recorded in Book 8235 and Page No. 1266 and pages following. Thereafter, a copy of the Satisfaction Pieces as duly recorded shall be served upon Debtors and bankruptcy counsel. The satisfaction shall result in the third and fourth mortgage liens of National Bank of Malvern. being avoided as an encumbrance on the Debtors' personal residence.

9. In the event that the property is destroyed or damaged, pursuant to the mortgages, Creditor is entitled to its full rights as a loss payee with respect to the insurance proceeds and has a security interest in such proceeds up to the entire balance due on the mortgages.

10. Each party shall bear their own attorney's fees and costs incurred in the present case number.

11. This Stipulation shall be incorporated in and become part of any Order confirming Plan in the Debtors' Chapter 13 within bankruptcy.

12. Counsel for Debtors and Counsel for Creditor have authority to settle this matter on behalf of his client.

IT IS SO ORDERED

Date: _____

Hon. Ashely M. Chan
United States Bankruptcy Judge

Date: 7/14/16

William L. Howard
William L. Howard, Esquire, Esquire
Attorney for National Bank of Malvern

Date: 7/19/16

Mitchell J. Prince
Mitchell J. Prince, Esquire
John L. McClain, Esquire
Attorneys for Debtors